

REMARKS

The present Amendment is in response to the Examiner's Final Office Action mailed June 19, 2006. Claims 13 and 22-25 are cancelled, claims 1, 3, 12, 14, 16, 26, and 27 are amended, and new claim 30 is added. Claims 1-12, 14-21, and 26-30 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 1, 2, 11, 27, and 28 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* (U.S. Patent No. 4,998,256) in view of *Tei* (U.S. Patent No. 6,122,301). The Examiner rejects claims 4, 12, and 22-25 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Munks* (U.S. Patent No. 6,289,028). The Examiner rejects claim 5 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Zheng* (U.S. Patent No. 5,963,686). The Examiner rejects claims 6, 17, and 18 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Nolan* (U.S. Patent No. 3,725,817). The Examiner rejects claims 7-10 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Bruun-Larsen* (U.S. Patent Application Pub. No. 20020141463). The Examiner rejects claims 14-16 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Tei*. The Examiner rejects

claims 19 and 20 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Tei* (U.S. Patent No. 6,366,592). The Examiner rejects claim 21 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Perry* (U.S. Patent Application Pub. No. 20020001321). The Examiner rejects claims 1, 2, 11, 27, and 28 under 35 U.S.C. § 103 as being unpatentable over *Ohshima* in view of *Kirkby* (U.S. Patent No. 4,583,227). The Applicants respectfully traverse the rejections in view of the amendments above and the following remarks.

According to the applicable statute, a claimed invention is unpatentable for obviousness if the differences between it and the prior art “are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.” 35 U.S.C. § 103(a) (2005); *Graham v. John Deere Co.*, 383 U.S. 1, 14 (1966); MPEP 2142. Obviousness is a legal question based on underlying factual determinations including: (1) the scope and content of the prior art, including what that prior art teaches explicitly and inherently; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham*, 383 U.S. at 17-18; *In re Dembiczak*, 175 F.3d 994, 998 (Fed. Cir. 1999). It is the initial burden of the PTO to demonstrate a *prima facie* case of obviousness. If the PTO does not set forth a *prima facie* case of obviousness, the applicant is under no obligation to submit evidence of nonobviousness. MPEP 2142 (emphasis added).

According to MPEP section 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added).

Claim 1 includes the following combination of elements, “a structure including a surface ... a collimating lens supported by the structure including the surface ... a filter layer supported by the collimating lens ... a first photosensitive area supported by the filter layer ... a second photosensitive area supported by the filter layer ... and a common substrate, wherein the surface,

the collimating lens, the filter layer, the first photosensitive area, and the second photosensitive area are supported by the common substrate....” None of the references of record teach or suggest these elements configured as set forth in Claim 1.

The configuration of these elements relate to a structure that has many advantages over the references of record. For example, the configuration of elements set forth in Claim 1 can be more compact than that disclosed by the references cited. To illustrate, referring to Figure 3 of the Applicants’ drawings an example of a wavelength locker 102 is shown. This wavelength locker 102 includes a prism 310 that supports a lens 312 layer. The lens 312 layer supports a layer that includes filters 314 and 315. The layer that includes filters 314 and 315 supports a detector layer 318 having two photosensitive areas 350. The design of the wavelength locker shown in Figure 3 (as well as Figures 9-13) exhibits a compactness and unitary-type construction not taught or suggested by the prior art. Rather, the prior art teaches configurations where the various elements are disposed in a spread-apart configuration

For example, a review of Figures 1, 3, 5, 6, 9, 10, 11, 16, 18, and 19 of *Ohshima* illustrates the manner in which the elements taught therein are disposed. As shown by these Figures of *Ohshima*, the various components are disposed in a manner that is much less compact as compared to several embodiments of Applicants illustrated in Figures 3 and 9-13 of the Applicants’ drawings. In particular, nowhere does *Ohshima* teach or suggest the relative supporting relationship of the elements as claimed. Moreover, several embodiments claimed and disclosed by the Applicants implement a unitary-type construction where relative alignment of the various components may be retained as the various components may rely on each other for relative support. Thus, the relative support provided in the claimed embodiments by the elements themselves results in the compact wavelength locker designs taught by the Applicant, which are not taught or suggested by the prior art. As such, the Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claim 14 recites the element, “wherein the means for receiving and directing light supports at least one of the first and second photosensitive areas”. Claim 16 recites the element, “a detector supported by the reflective element”. These elements in combination with the other elements of claims 14 and 16 define a compact and unitary-type configuration not taught or suggested by the prior art for reasons analogous to those discussed above with regards to claim 1.

This compactness can result from the manner in which the elements are assembled and configured. As such, the Applicants respectfully request that the rejections of claims 14 and 16 be withdrawn for reasons analogous to those set forth above with regards to claim 1.

Claims 2, 4-12, and 26-30 depend from claim 1. Claim 15 depends from claim 14. Claims 17-21 depend from claim 16. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The Applicants respectfully request that the rejections of claims 2, 4-12, and 26-30 be withdrawn at least for the same reasons as claim 1, the rejection of claim 15 be withdrawn at least for the same reasons as claim 14, and claims 17-21 be withdrawn for at least the same reasons as claim 16.

Regarding the rejection of claim 3, the Examiner asserts on page 3 that “the photosensitive areas surrounding the conductive strips form a first and second photosensitive area arranged concentrically as claimed in claim 3.” The Applicants respectfully traverse this assertion. Figures 2 and 3 of Cox show two separate conductive members 10 and 14 disposed on a top surface of a photodetector layer PD as shown in Figure 2. The photodetector layer PD is a single layer having the contacts 10 and 14 disposed thereon. As the Examiner notes and Cox sets forth, “the two conductors, 10 and 12, define a preselected portion 20 of the photosensitive material between them. This arrangement forms a photodiode between contact pad 12 and contact pad 16.” However, it has not been shown that the photosensitive area surrounding the conductive strips forms a “a second photosensitive area supported by the filter layer that receives light that does not pass through the first filter and detects a second signal....” Rather, in Cox it appears that only the area 20 between contacts 10 and 14 is configured to sense a single signal. Thus, Cox does not teach “a first photosensitive area supported by the filter layer that receives filtered light through the first filter and detects a first signal [and] a second photosensitive area supported by the filter layer that receives light that does not pass through the first filter and detects a second signal” as required by claim 1. As such, the applicants respectfully request that the rejection of claim 3 be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 20th day of November, 2006.

Respectfully submitted,

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